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Summary of Oral Statement
Commercial Activities Panel Hearing
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Concern over the conduct of the Commercial Activities process has caused CH2M HILL to severely limit participation to a very few studies where we believe the process will be applied fairly.

After having proposed as a joint venture partner or subcontractor on eight commercial activities studies we have lost confidence in the process. We have found that the Government does not, for whatever reason, apply consistent processes in the evaluation of the contractors' proposals, certification of the Most Efficient Organizations, leveling of the two, or to accountability for execution within the proposed price. As a result errors typically favor the Government's proposal. For example.

When proposing on three Navy A76 studies, we were subjected to DCAA "price reasonableness" audits despite the fact that the contracts were to be firm fixed priced. During each of the audits our material rates were challenged as too low. To prove reasonableness, we were required to submit our subcontractor's material costs on all similar contracts even if those subcontractors were not proposing on the solicitations being evaluated and even though they were firm fixed price subcontracts for which we did not have the material cost data. The Government on the other hand proposed material rates that were 45% below ours, and which turned out to be the margin of victory for the MEO. We recommend that the same level of scrutiny be applied to insure the MEO's price is reasonable and subject to the same standards as is applied to the contractor's proposal. We also recommend that the review of the MEO be done by an independent and impartial third party.

If successful, contractors are bound by their contracts, which are administered by the Government and, which must account for, and ultimately approve every change in contract price. There is no similar accountability or oversight on the Government's performance under the MEO that we can discern. To insure the same level of confidence in the cost and quality of performance on both sides of the competition, we recommend that when the MEO retains the work in-house, periodic audits be conducted by a competent third party to determine whether they are performing in accordance with the contract. This will lend significant credibility to the process. I should note that we understand such audits are provided for but we have not seen or heard the results of any.

Our purpose here today is to see credibility restored to the A76 process so that CH2M HILL can once again consider participation in the program.

As a related topic, I would like to bring to the panel's attention, the increasing application of OMB Circular A76 rules to the DOD Utility Privatization Program, even though there is no official guidance to warrant this action by the Department of Defense. It appears that because DOD has not provided guidance regarding how the contractors' long-term costs should be compared to Government's long-term costs (a condition for privatization) or for development of the Government's long-term "should costs", A76 is being applied on a piecemeal basis. Soon the Utility Privatization program will suffer the same problems you are looking into now. The process will grind to a halt under a flood of protests that seek to establish the fair and verifiable basis upon which these comparisons should be made. We recommend that as a preventive measure the Panel support development of DOD Guidelines for Utility Privatization "should cost" development and cost comparisons.

Thank you for your time and consideration.